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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,758	12/24/2003	Jiro Kanamori	2003-1730A	8930
513 7590 11/01/2006 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER WEIER, ANTHONY J	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/743,758

Applicant(s)

KANAMORI ET AL.

Examiner

Anthony Weier

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on 8/28/06 is acknowledged. The traversal is on the ground(s) that the two inventions are classified in the same are. This is not found persuasive because the search of each invention involves the search of subclasses (and possibly other classes) beyond such single classification wherein the field of search and strategy used therein is not the same for both inventions.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are:

The preamble indicates that the claim involves a process for producing a deep-fried bean curd, but the limitations only refer to the step of emulsifying and adding of a coagulant. Any sort of method steps involving deep-frying, formation of the pouch, and specific preparation of a curd have been omitted.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2-100647.

JP 2-100647 discloses a process wherein soy milk which comprises an emulsified mixture soy protein, soy fat, and water (inherently already emulsified naturally) and the addition of a coagulant in solution, wherein the coagulant is, for example, quick-acting magnesium chloride, to prepare a bean curd which is formed into a bag (i.e. pouch) and deep fried in oil (see Abstract, pages 239, 243, and 244).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2-100647.

JP 2-100647 is silent regarding the ratio of coagulant to soy protein as called for in instant claims 4. However, such determination would have been well within the purview of one having ordinary skill in the art at the time of the invention through routine experimental optimization as to the amount required to coagulate the material.

7. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2-100647 taken together with JP 60-30659.

If it is shown that JP 2-100647 does not inherently provide for a soy milk containing fat, protein, and water that has been emulsified, the following should be noted. JP 60-30659 teaches the preparation of a bean curd having constant quality and good workability by first emulsifying soy milk so that "soybean protein and soybean fats contained are uniformly dispersed to give a soybean milk in a uniform colloidal state" wherein a "dispersant....of a stabilized aqueous solution of magnesium chloride...is added to the soybean milk". It would have been obvious to one having ordinary skill in the art at the time of the invention to have specifically employed this emulsifying step followed by a solution of coagulant for the advantages of the resulting bean curd as set forth therein.

8. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mother Earth News (1977 Article) taken together with taken together with JP 60-30659.

Mother Earth News discloses a process wherein tofu slices are deep-fried and cut to form pouches.

The claims call for the bean curd to be prepared from steps including emulsifying a soy protein, fat ingredient, and water, followed by addition of a solution of a coagulant (e.g. magnesium chloride). JP 60-30659 teaches the preparation of a bean curd having constant quality and good workability by first emulsifying soy milk so that "soybean protein and soybean fats contained are uniformly dispersed to give a soybean milk in a uniform colloidal state" wherein a "dispersant....of a stabilized aqueous solution of magnesium chloride...is added to the soybean milk". It would have been

Art Unit: 1761

obvious to one having ordinary skill in the art at the time of the invention to have specifically employed this emulsifying step followed by a solution of coagulant for the advantages of the resulting bean curd as set forth therein.

JP 60-30659 is silent regarding the ratio of coagulant to soy protein as called for in instant claims 4. However, such determination would have been well within the purview of one having ordinary skill in the art at the time of the invention through routine experimental optimization as to the amount required to coagulate the material.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

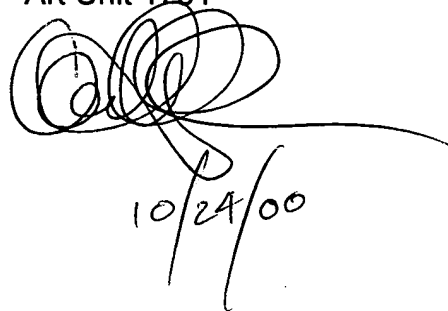
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier  
October 24, 2006

Anthony Weier  
Primary Examiner  
Art Unit 1761



10/24/00